

Components of a State 404 Assumption Package
Assumes only FDEP will run the program

Under 40 CFR 233.15, a complete state program includes the requirements set out in 40 CFR 233.10.

1. Letter from the Governor requesting program approval & submitting the assumption package (40 CFR 233.10(a)) - (State)
Status – unknown. **We haven't seen this piece.**
2. A complete program description (40 CFR 233.10(b) and 233.11) - (State)
Status – have seen a few components (early regulatory crosswalk based on original draft rule, draft delineation implementation strategy), but **we have not seen a comprehensive description.**
3. Attorney General Statement (40 CFR 233.10(c) and 233.12) - (State)
Status - state is working on outline. **We haven't seen this piece.**
4. Memorandum of Agreement between the State and EPA (40 CFR 233.10(d) and 233.13) - (EPA/State)
Status – MOA drafted. Currently resolving language re: program modifications, also open in case of additions re: ESA, 5-year permit, delineation implementation.
5. Memorandum of Agreement between the State and the U.S. Army Corps of Engineers (40 CFR 233.10(e) and 233.14) - (State/COE)
Status – being drafted by Corps & state. Have seen version from week of 8/14.
6. Copies of all applicable State statutes and regulations (40 CFR 233.10(f)) - (State)
Status – State still in rulemaking on needed rules. We understand they will be ready to start this process in three weeks (approx. 9/10). The Notice of Proposed Rule (NPR) process will then take approximately 37 days to complete (10/17). If no public hearing (unlikely), this could be shorter by one week. Rule is lawfully adopted when Secretary of FDEP signs the rule. Then rule must go to the office of the Secretary of State for at least 20 days before it is effective for state law purposes (10/31 (if no hearing) or 11/7); process tends to run 30 days (11/7 (if no hearing) or 11/14. Not effective for 404 program until EPA approves.
State has developed regulatory crosswalk which will need to be completed.